IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 392 OF 2005

Chandrabai Pandurang Madane. ... Appellant.

Versus.

Vithoba Pira Gadade & others. ... Respondents.

Shri Ms.Leena Patil i/by Shri P.M.Pradhan for the Appellant.

CORAM : ABHAY S. OKA, J.

DATED : 6th April, 2005.

P.C.:

1. Heard the learned Counsel appearing for the Appellant. The Appellant is the unsuccessful original Plaintiff. The Appellant's suit for perpetual injunction has been dismissed by the trial Court and the Decree of the trial Court has been confirmed in Appeal.

2. The courts below have held that the Appellant/Plaintiff has failed to establish her exclusive possession over the suit property, which is referable to a valid title. The Appellate court has accepted the report of the Court Commissioner and has disbelieved the case made out by the Appellant that the partition took place in a particular manner. Reliance is also placed on the sale deed executed by the deceased Kantabai in favour of the Respondents.

3. The findings recorded by the Courts below are purely findings of fact. The said findings of fact cannot be

interfered with in the Second Appeal under section 100 of the Code of Civil Procedure, 1908. There is no merit in the Second Appeal and the same is dismissed with no order as to costs.

Judge.